



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB2915

by Rep. Jerry F. Costello, II

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Caregiver Advise, Record, and Enable Act. Provides that after a patient is admitted as an inpatient into a hospital and before the patient is discharged or transferred, the hospital shall provide the patient or the patient's legal representative with an opportunity to designate a caregiver. Provides that the hospital shall document the patient's designation of a caregiver. Requires the hospital to notify the patient's designated caregiver prior to the patient's discharge or transfer, unless the patient indicates that he or she does not want the designated caregiver to be notified. Requires the hospital to consult with the designated caregiver and issue a discharge plan that contains certain information. Provides that the hospital issuing the discharge plan shall make an effort to provide or arrange for the designated caregiver to receive instructions in the after-care assistance tasks described in the discharge plan. Provides that the Act shall not be construed to interfere with the rights of an agent operating under a valid health care directive and shall not be construed to create a private right of action against certain individuals and entities. Contains other provisions. Effective 180 days after becoming law.

LRB099 09290 RPS 29494 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Caregiver Advise, Record, and Enable Act.

6 Section 5. Definitions. As used in this Act:

7 "After-care" means clinical assistance to a patient  
8 provided by a caregiver in the patient's residence following  
9 the patient's discharge from an inpatient hospital stay that is  
10 related to the patient's condition at the time of discharge, as  
11 determined appropriate by the discharging physician or other  
12 health care professional. Clinical assistance may include  
13 activities of daily living or medication management.

14 "Caregiver" means any individual designated by a patient to  
15 provide after-care to a patient. A designated caregiver may  
16 include, but is not limited to, a relative, spouse, partner,  
17 friend, or neighbor.

18 "Discharge" means a patient's release from a hospital to  
19 the patient's residence following an inpatient admission.

20 "Hospital" means a general acute care hospital licensed  
21 under the Hospital Licensing Act or the University of Illinois  
22 Hospital Act.

23 "Legal representative" means a personal representative

1 having designated legal status, including an agent designated  
2 through a power of attorney.

3 "Patient" means an individual admitted to a hospital as an  
4 inpatient. "Patient" does not include a pediatric patient or a  
5 patient who is not capable of designating a caregiver due to a  
6 health care condition or other circumstances, as determined by  
7 the health care provider.

8 "Residence" means a dwelling that the patient considers to  
9 be the patient's home. "Residence" does not include a  
10 rehabilitation facility, hospital, nursing home, assisted  
11 living establishment, group home licensed by the Department of  
12 Public Health or the Department of Human Services, or a  
13 State-operated facility.

14 Section 10. Opportunity to designate a caregiver.

15 (a) A hospital shall provide each patient or, if  
16 applicable, the patient's legal representative with an  
17 opportunity to designate a caregiver following the patient's  
18 admission into the hospital as an inpatient and prior to the  
19 patient's discharge to the patient's residence or transfer to  
20 another facility.

21 (b) In the event that a patient is unconscious or otherwise  
22 incapacitated, the hospital shall provide the patient or the  
23 patient's legal representative with an opportunity to  
24 designate a caregiver within a timeframe deemed appropriate by  
25 the attending physician or other licensed health care provider.

1 (c) If a patient or legal representative declines to  
2 designate a caregiver pursuant to this Act, the hospital shall  
3 document this declination in the patient's medical record and  
4 has no further responsibilities under this Act.

5 (d) If a patient or the patient's legal representative  
6 designates an individual as a caregiver under this Act, the  
7 hospital shall record the patient's designation of caregiver,  
8 the relationship of the designated caregiver to the patient,  
9 and the name, telephone number, and address of the patient's  
10 designated caregiver in the patient's medical record.

11 (e) A patient may elect to change his or her designated  
12 caregiver at any time, and the hospital must record this change  
13 in the patient's medical record and thereafter treat the newly  
14 named person as the designated caregiver.

15 (f) A designation of a caregiver by a patient or the  
16 patient's legal representative does not obligate any  
17 individual to provide any after-care for the patient.

18 (g) This Section shall not be construed to require a  
19 patient or a patient's legal representative to designate an  
20 individual as a caregiver under this Act.

21 Section 15. Notice to designated caregiver. A hospital  
22 shall notify a patient's designated caregiver of the patient's  
23 discharge or transfer to another hospital or facility licensed  
24 by the Department of Public Health as soon as possible prior to  
25 the patient's actual discharge or transfer and, in any event,

1 upon issuance of a discharge order by the patient's attending  
2 physician, unless the patient indicates he or she does not wish  
3 the designated caregiver to be so notified. In the event the  
4 hospital is unable to contact the designated caregiver, the  
5 lack of contact shall not interfere with, delay, or otherwise  
6 affect the medical care provided to the patient or an  
7 appropriate discharge or transfer of the patient.

8 Section 20. Instruction to designated caregiver.

9 (a) As soon as possible prior to a patient's discharge from  
10 a hospital to the patient's residence, the hospital shall  
11 consult with the designated caregiver and issue a discharge  
12 plan that describes a patient's clinical after-care assistance  
13 needs, if any, at the patient's residence. The consultation and  
14 issuance of a discharge plan shall occur on a schedule that  
15 takes into consideration the severity of the patient's  
16 condition and the urgency of the need for caregiver services.  
17 In the event the hospital is unable to contact the designated  
18 caregiver, the lack of contact shall not interfere with, delay,  
19 or otherwise affect the medical care provided to the patient or  
20 an appropriate discharge of the patient. At a minimum, the  
21 discharge plan shall include:

22 (1) A description of the after-care assistance tasks  
23 deemed appropriate by the discharging physician or other  
24 health care professional.

25 (2) Contact information for any health care, clinical

1 community resources, and long-term services and supports  
2 that may be helpful in carrying out the patient's discharge  
3 plan, and contact information for an individual designated  
4 by the hospital who can respond to questions about the  
5 discharge plan.

6 (b) The hospital issuing the discharge plan must make an  
7 effort to provide or arrange for the designated caregiver to  
8 receive instructions in after-care assistance tasks described  
9 in the discharge plan. Training and instructions for caregivers  
10 may be conducted in person or through video technology. Any  
11 training or instructions to a caregiver shall be provided in  
12 non-technical language, to the extent possible. At a minimum,  
13 this instruction shall include:

14 (1) A live or recorded demonstration of the tasks  
15 performed by an individual designated by the hospital who  
16 is authorized to perform the after-care assistance task and  
17 is able to perform the demonstration in a  
18 culturally-competent manner, in accordance with the  
19 hospital's requirements to provide language access  
20 services under State and federal law and in accordance with  
21 the hospital's procedures for providing education to  
22 patients and family caregivers.

23 (2) An opportunity for the caregiver to ask questions  
24 about the after-care assistance tasks.

25 (3) Answers provided in a culturally competent manner  
26 and in accordance with State and federal law.

1           (c) In the event the designated caregiver cannot be  
2 reached, is not available, or is not willing to receive the  
3 instruction, the lack of contact or instruction shall not  
4 interfere with, delay, or otherwise affect an appropriate  
5 discharge of the patient.

6           Section 25. Non-interference with health care directives.  
7 Nothing in this Act shall be construed to interfere with the  
8 rights of an agent operating under a valid health care  
9 directive.

10          Section 30. No private right of action. Nothing in this Act  
11 shall be construed to create a private right of action against  
12 a hospital, a hospital affiliate, a hospital employee, or a  
13 consultant or contractor with whom a hospital has a contractual  
14 relationship.

15          A hospital, a hospital affiliate, a hospital employee, or a  
16 consultant or contractor with whom a hospital has a contractual  
17 relationship shall not be held liable, in any way, for services  
18 rendered or not rendered by the caregiver to the patient.

19          Nothing in this Act shall delay the discharge of a patient  
20 or the transfer of a patient from a hospital to another  
21 facility.

22          Section 99. Effective date. This Act takes effect 180 days  
23 after becoming law.